

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Brian Keith Alford,

Plaintiff,

VS.

Robert Zilles, *et al.*,

Defendants.

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) Case Number: 3:21-cv-1123
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) Judge: James G. Carr
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MOTION FOR LEAVE TO WITHDRAW AS COUNSEL

Counsel for plaintiff Brian Keith Alford (“Alford”) files this Motion for Leave to Withdraw as Counsel, respectfully requesting that this Court grant leave for counsel to file a motion to withdraw as counsel for Alford by January 3, 2025. In support of the instant Motion, counsel states as follows:

“An attorney's ‘withdrawal is presumptively appropriate where the [Model Rules of Professional Conduct and the Local Rules] requirements are satisfied.’ *Cleary v. DePuy Orthopaedics, Inc.*, No. 1:11-dp-20820, 2019 U.S. Dist. LEXIS 156042, at *1 (N.D. Ohio Sep. 12, 2019) (quoting *Brandon v. Blech*, 560 F.3d 536, 538 (6th Cir. 2009). Counsel may withdraw in this Court after (1) providing written notice to the client and all other parties in a case, and (2) obtaining leave of court. LR 83.9.

On December 16, 2024, this Court granted leave for counsel to withdraw by December 19, 2024. Prior to the date of this filing, Counsel had not provided written notice to Alford of counsel's intent to withdraw.¹ Counsel recognizes the need to withdraw—albeit reluctantly—as a result of being named a defendant in another lawsuit filed by the plaintiff. However, at the time of this Court's order on December 16, 2024, counsel was awaiting a reply from Alford regarding unrelated correspondence. This may have demonstrated to Alford based on filings on the docket that counsel has worked on Alford's case during a.m. hours. Counsel was hopeful that Alford would voluntarily dismiss counsel from the lawsuit as a result of seeing additional evidence of counsel's work on the instant case. Counsel asserts that voluntary withdrawal of a lawsuit filed against counsel, without any communication from counsel related to the lawsuit, may have constituted grounds for voluntary withdrawal, rather than mandatory withdrawal. *Compare* ABA-AMRPC Rule 1.16(a) to ABA-AMRPC Rule 1.16(b) (differentiating between when a lawyer can withdraw from representation with when a lawyer must withdraw from representation). Regrettably, correspondence from Alford has since been received by counsel, and counsel now has no choice but to involuntarily seek mandatory withdrawal from the instant case pursuant to ABA-AMRPC Rule 1.16(a)(1) and Rule 1.8(b). *See* ABA-AMRPC Rule 1.8(b) (stating that a lawyer shall not use information relating to representation of a client to the disadvantage of the client).

As of the time of this filing, counsel has provided written communication to Alford and all parties to the instant case of counsel's intent to withdraw. Additionally, counsel's proposed motion

¹ Prior to the date of this filing, counsel provided Alford with all documents in counsel's case file pursuant to this Court December 16, 2024, order having continuously provided Alford with all documents simultaneous with counsel's receipt of said documents.

to withdraw is attached to the instant motion and will be filed should this court grant leave for its filing.

CONCLUSION

Counsel explored all realistic avenues in good faith that may have permitted counsel to continue to represent Alford in the instant case; these options are now materially precluded. Counsel asserts that this constitutes good cause for this Court to permit counsel to withdraw by January 3, 2024.

Dated: December 27, 2024

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by Electronic Filing (CM/ECF) on December 27, 2024, on all counsel or parties of record on the service list below.



Joseph Sobecki

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